

**LEWIS
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July 22, 2010

File No.
29248-02

VIA ECF

The Honorable Brian M. Cogan
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: Pamela Rodriguez, et al. v. The City of New York, et al.
06-CV-3049 (BMC) (RER)

Dear Judge Cogan:

Lewis Brisbois Bisgaard & Smith LLP ("Lewis Brisbois") and District Council 37, AFSCME, AFL-CIO ("District Council 37" or the "Union"), plaintiffs' counsel herein, write in accordance with the Court's order filed July 8, 2010 (the "Order"). The Court directed us to submit the precise amount sought as reimbursement for fees paid by District Council 37 and the actual cost District Council incurred for its in-house counsel work on this matter. Accordingly, we submit the following:

(1) Plaintiffs seek \$481,630 for fees and \$9,059.72 for disbursements to reimburse District Council 37 for fees and disbursements paid to date on this matter. As documentary support of those payments, we enclose a copy of the firm's internal Accounts Receivable Report for this matter. The report shows a record of fees and disbursements billed to District Council 37 and the amounts paid, along with invoice numbers and corresponding number of the checks transmitted in payment.¹

¹ We possess copies of the invoices and corresponding checks in payment of the invoices. If the Court wishes to inspect the copy of the invoices and checks, we will submit them to the Court.

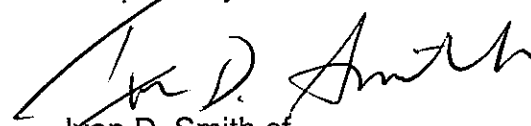
The Honorable Brian M. Cogan
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(2) The actual costs incurred by District Council 37 for Steven Sykes's time on the matter is \$40,835.65 and for the paralegal's time is \$2,133.62. As support, we enclose the Declaration of Mr. Sykes detailing the hours worked on this case by Mr. Sykes and the paralegal, and the Affidavit of Alvin Warshaviak, Controller of District Council 37, detailing the hourly rate District Council 37 incurred for Mr. Sykes's and the paralegal's time.

In addition, plaintiffs' counsel respectfully request the Court to delay the fees determination until August 5, 2010, to allow District Council 37 sufficient time to establish a separate legal fund for the deposit of attorneys' fees recovered in this and all subsequent matters. This fund would be controlled by the General Counsel of District Council 37 and segregated from the Union's general treasury. After the inception of the separate legal fund, plaintiffs' counsel would then respectfully request the Court to award District Council 37 fees on this matter at market rate.

In any event, after the Court determines the amount of fees to go the District Council 37, Lewis Brisbois respectfully requests that any remainder from the settlement proceeds be turned over to it as attorneys' fees. Plaintiffs' counsel and defendants negotiated a settlement of the attorneys' fees issue and agreed on a settlement amount of \$965,000. During negotiations, Lewis Brisbois submitted time records to defendants that totaled over \$1,000,000 for the legal work on this case. If the remainder of the settlement proceeds is not awarded to Lewis Brisbois, then plaintiffs' counsel will not realize the benefit of the bargain it struck with defendants. Defendants do not oppose our specific request that the remainder of the settlement proceeds, if any, go to Lewis Brisbois.

Respectfully submitted,



Ivan D. Smith of
LEWIS BRISBOIS BISGAARD & SMITH LLP

IDS

Enclosures

cc: Joshua R. Fay, Esq. (via E-mail)
Steven Sykes, Esq. (via E-mail)

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AR HISTORY

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LDBData**By Arrival Sequence**
29248-2DISTRICT COUNCIL 37, AFSCME, AFL-CIO
RODRIGUEZ V CITY OF NEW YORKOffice: NEW YORK
Billing Atty: IVAN D. SMITH

Post Date	Inv. No.	Trans Date	Billed Fees	Billed Disbs	Paid Fees	Paid Disbs	A/R Balance	Retainer
10/11/07	548238 Billing	10/11/07	6,880.00		6,880.00		6,880.00	
11/07/07	548238 Payment DISTRICT COUNCIL 37 Check#: 66639	11/05/07			6,880.00		.00	
11/13/07	555443 Billing	11/13/07	6,160.00	8.41			6,168.41	
12/06/07	555443 Payment DISTRICT COUNCIL 37 AMERICAN FEDERATION Check#: 67284	12/03/07			6,160.00	8.41	.00	
12/26/07	564717 Billing	12/26/07	6,400.00	3.00			6,403.00	
2007			19,440.00 *	11.41 *	13,040.00 *	8.41 *	6,403.00 *	.00 *
1/14/08	567866 Billing	1/14/08	12,335.00	185.81			18,923.81	
2/13/08	564717 Payment DISTRICT COUNCIL 37 Check#: 69116	2/12/08			6,400.00	3.00	12,520.81	
2/13/08	567866 Payment DISTRICT COUNCIL 37 Check#: 69116	2/12/08			12,335.00	185.81	.00	
2/13/08	574437 Billing	2/13/08	10,620.00	71.25			10,691.25	
3/10/08	574437 Payment DISTRICT COUNCIL 37 Check#: 70020	3/10/08			10,620.00	71.25	.00	
3/13/08	581043 Billing	3/13/08	13,027.50	62.09			13,089.59	
4/14/08	587862 Billing	4/14/08	9,620.00	435.80			23,145.39	
4/14/08	581043 Payment DISTRICT COUNCIL 37 AMERICAN FEDERATION OF STATE Check#: 70911	4/14/08			13,027.50	62.09	10,055.80	
5/09/08	595262 Billing	5/09/08	13,800.00	1,137.33			24,993.13	
6/10/08	603073 Billing	6/10/08	8,340.00	13.65			33,346.78	
6/30/08	595262 Payment DISTRICT COUNCIL 37, AMERICAN FEDERATION Check#: 73209	6/27/08			13,800.00	1,137.33	18,409.45	
7/17/08	611031 Billing	7/17/08	14,540.00	81.25			33,030.70	
8/04/08	603073 Payment DISTRICT COUNCIL 37 Check#: 74027	8/04/08			8,340.00	13.65	24,677.05	
8/19/08	618859 Billing	8/19/08	22,340.00	202.68			47,219.73	
8/22/08	611031 Payment DISTRICT COUNCIL 37, AMERICAN FEDERATION Check#: 74376	8/22/08			14,540.00	81.25	32,598.48	
9/11/08	626328 Billing	9/11/08	21,180.00	54.72			53,833.20	
9/17/08	618859 Payment DISTRICT COUNCIL 37 Check#: 75145	9/16/08			22,340.00	202.68	31,290.52	
10/15/08	626328 Payment DISTRICT COUNCIL 37, AMERICAN FEDERATION Check#: 75924	10/15/08			21,180.00	54.72	10,055.80	
10/22/08	636264 Billing	10/22/08	19,037.50	3,374.50			32,467.80	
11/04/08	636264 Payment DISTRICT COUNCIL 37, AMERICAN FEDERATION Check#: 76610	11/04/08			19,037.50	3,374.50	10,055.80	
11/18/08	587862 Payment DISTRICT COUNCIL 37, AMERICAN FEDERATION Check#: 77211	11/18/08			9,620.00	435.80	.00	
11/24/08	644361 Billing	11/24/08	21,130.00	189.10			21,319.10	
12/11/08	649319 Billing	12/11/08	18,880.00	82.85			40,281.95	

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 By Arrival Sequence
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AIR HISTORY
DISTRICT COUNCIL 37, AFSCME, AFL-CIO
RODRIGUEZ V CITY OF NEW YORK

Office: NEW YORK
 Billing Atty: IVAN D. SMITH

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Post Date	Inv. No.	Trans Date	Billed Fees	Billed Disbs	Paid Fees	Paid Disbs	A/R Balance	Retainer
12/16/08	644361 Payment: DISTRICT COUNCIL 37, AMERICAN FEDERATION Check#: 77929	12/16/08	184,850.00 *	5,891.03 *	21,130.00	189.10	18,962.85	
2008								
1/19/09	649319 Payment: DISTRICT COUNCIL 37, AMERICAN FEDERATION OF STATE, COUNTY & MUNICIPAL EMPLOYEES Check#: 78477	1/09/09			18,880.00	82.85	.00	
1/26/09	659467 Billing	1/26/09	29,420.00	821.68			30,241.68	
2/06/09	659467 Payment: DISTRICT COUNCIL 37 AMERICAN FEDERATION Check#: 79223	2/06/09			29,420.00	821.68	.00	
2/20/09	666284 Billing	2/20/09	20,320.00	132.11			20,452.11	
3/16/09	666284 Payment: DISTRICT COUNCIL 37 Check#: 80218	3/16/09			20,320.00	132.11	.00	
3/17/09	672117 Billing	3/17/09	30,700.00	446.17			31,146.17	
4/08/09	672117 Payment: DISTRICT COUNCIL 37, AMERICAN FEDERATION OF STATE, COUNTY & MUNICIPAL EMPLOYEES Check#: 80646	4/06/09			30,700.00	446.17	.00	
4/14/09	680872 Billing	4/14/09	34,260.00	349.21			34,609.21	
4/30/09	680872 Payment: DISTRICT COUNCIL 37 Check#: 81311	4/30/09			34,260.00	349.21	.00	
5/12/09	687412 Billing	5/12/09	31,800.00	65.50			31,865.50	
5/27/09	687412 Payment: DISTRICT COUNCIL 37 Check#: 81941	5/27/09			31,800.00	65.50	.00	
6/18/09	697572 Billing	6/18/09	15,540.00	110.85			15,650.85	
7/16/09	697572 Payment: DISTRICT COUNCIL 37 Check#: 83833	7/16/09			15,540.00	110.85	.00	
7/20/09	706011 Billing	7/20/09	11,840.00	95.92			11,935.92	
8/13/09	706011 Payment: DISTRICT COUNCIL 37 Check#: 84349	8/07/09			11,840.00	95.92	.00	
8/26/09	716498 Billing	8/26/09	5,140.00	24.14			5,164.14	
9/22/09	716498 Payment: DISTRICT COUNCIL 37, AMERICAN FOUNDATION Check#: 85559	9/21/09			5,140.00	24.14	.00	
9/24/09	724539 Billing	9/24/09	9,160.00	44.84			9,204.84	
10/20/09	730338 Billing	10/20/09	19,640.00	213.35			29,058.19	
10/20/09	724539 Payment: DISTRICT COUNCIL 37, AMERICAN FEDERATION Check#: 86317	10/19/09			9,160.00	44.84	19,853.35	
11/13/09	737861 Billing	11/13/09	8,120.00	93.12			28,066.47	
12/23/09	748873 Billing	12/23/09	8,600.00	22.31			36,688.78	
2009			224,540.00 *	2,419.20 *	207,060.00 *	2,173.27 *	36,688.78 *	.00 *
1/22/10	755992 Billing	1/22/10	7,240.00	147.72			44,076.50	
2/18/10	764732 Billing	2/18/10	20,280.00	267.48			64,623.98	

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 By Arrival Sequence
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A/R HISTORY
 DISTRICT COUNCIL 37, AFSCME, AFL-CIO
 RODRIGUEZ V CITY OF NEW YORK

Office: NEW YORK
 Billing Atty: IVAN D. SMITH

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Post Date	Inv. No.	Trans Date	Billed Fees	Billed Disbs	Paid Fees	Paid Disbs	A/R Balance	Retainer
3/12/10	771061 Billing	3/12/10	12,500.00	836.70	7,240.00	147.72	77,960.68	
3/18/10	755982 Payment: DISTRICT COUNCIL 37, AMERICAN FEDERATION Check#: 89677	3/18/10					70,572.96	
3/18/10	730338 Payment: DISTRICT COUNCIL Check#: 90586	3/18/10			19,640.00	213.35	50,719.61	
3/18/10	737861 Payment: DISTRICT COUNCIL Check#: 90586	3/18/10			8,120.00	93.12	42,506.49	
3/18/10	748873 Payment: DISTRICT COUNCIL Check#: 90586	3/18/10			8,600.00	22.31	33,884.18	
4/23/10	783930 Billing	4/23/10	22,520.00	228.01			56,632.19	
5/14/10	788922 Billing	5/14/10	23,040.00	362.35			80,034.54	
6/08/10	788922 Payment: DISTRICT COUNCIL 37 Check#: 92531	6/07/10			23,040.00	362.35	56,632.19	
6/21/10	801164 Billing	6/21/10	11,560.00	254.79			68,446.98	
6/30/10	783930 Payment: DISTRICT COUNCIL 37 Check#: 93044	6/29/10			22,520.00	228.01	45,698.97	
7/14/10	807006 Billing	7/14/10	1,200.00	16.25			46,915.22	
2010			98,340.00 *	2,113.30 *	89,160.00 *	1,066.86 *	46,915.22 *	.00 *
Totals:			527,170.00	10,434.94	481,630.00	9,059.72	46,915.22	.00

Retainer Balances
 RETAINER ACCOUNT
 OTHER RETAINER

.00
 .00

Aged Accounts Receivable	0-30 days	31-60 days	61-90 days	Over 90 days	Total
Fees:	12,760.00			32,780.00	45,540.00
Disbursements:	271.04			1,104.18	1,375.22
Total:	13,031.04 *	*	*	33,884.18 *	46,915.22 *

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
PAMELA RODRIGUEZ, TIFFANY BELLE,
YOLANDA CAPERS, TONI REID, KESHA SMITH,
AKELA GRIFFEN, TIFFANY MORRIS, FELICITA
GOMEZ, SANDRA SPRINGER, CYNTHIA HILL
and JENNY MARCELINO,

ECF CASE

On behalf of themselves and all others
similarly situated),

AFFIDAVIT OF
ALVIN WARSHAVIAK

Plaintiffs,

Civil Case No. 06-Civ-3049
(BMC)(RER)

-against-

THE CITY OF NEW YORK (Michael R. Bloomberg,
As Mayor) and THE NEW YORK CITY POLICE
DEPARTMENT (Raymond Kelly, as Police Commissioner)

Defendants.
-----X

STATE OF NEW YORK)
COUNTY OF NEW YORK) SS:

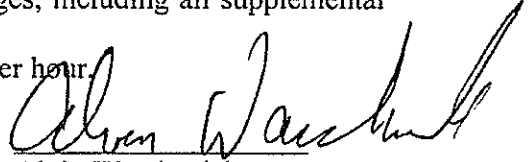
ALVIN WARSHAVIAK, being duly sworn, hereby deposes and states:

1. I am the Controller of District Council 37, AFSCME, AFL-CIO ("District Council 37"). I have held this position for over 17 years. As Controller, I manage the accounting departments at District Council 37, including accounts payable, accounts receivable, and payroll.
2. I am fully familiar with the payroll records of District Council 37, including all employees in the District Council 37 General Counsel's Office.

3. District Council 37 is in the process of setting up a segregated legal fund controlled by the General Counsel and used solely to fund legal activities. The fund will be operational on or before August 2, 2010.
4. Steven Sykes began working in the DC37 General Counsel's Office on November 15, 2004.
5. Steven Sykes is the Senior Assistant General Counsel and has held this position since November 2008. Prior to this title, he was an Assistant General Counsel. He is paid a yearly salary based on a 35-hour work week.
6. During the 2006 calendar year, his hourly wages, including all supplemental benefits and other employer costs was \$46.79 per hour.
7. During the 2007 calendar year, his hourly wages, including all supplemental benefits and other employer costs was \$46.63 per hour.
8. During the 2008 calendar year, his hourly wages, including all supplemental benefits and other employer costs was \$59.37 per hour.
9. During the 2009 calendar year, his hourly wages, including all supplemental benefits and other employer costs was \$92.56 per hour.
10. During the 2010 calendar year, his hourly wages, including all supplemental benefits and other employer costs was \$97.05 per hour.
11. Anastasia Papadimitri is a paralegal in the District Council 37 General Counsel's Office. She is paid a yearly salary based on a 35-hour work week.
12. During the 2008 calendar year, her hourly wages, including all supplemental benefits and other employer costs was \$23.88 per hour.

13. During the 2009 calendar year, her hourly wages, including all supplemental benefits and other employer costs was \$32.18 per hour.

14. During the 2010 calendar year, her hourly wages, including all supplemental benefits and other employer costs was \$34.65 per hour.


Alvin Warshaviak

Sworn to before me this
22nd day of July 2010


NOTARY PUBLIC

JESSE GRIBBEN
Notary Public, State of New York
No. 1068600086
Qualified in New York County
Commission Expires June 9, 2013

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
PAMELA RODRIGUEZ, TIFFANY BELLE,
YOLANDA CAPERS, TONI REID, KESHA SMITH,
TIFFANY MORRIS, FELICITA GOMEZ, SANDRA
SPRINGER, CYNTHIA HILL and JENNY
MARCELINO (On behalf of themselves and all others
similarly situated),

Plaintiffs,

-against-

THE CITY OF NEW YORK (Michael R. Bloomberg, as
Mayor) and THE NEW YORK CITY POLICE
DEPARTMENT (Raymond Kelly, as Police
Commissioner),

Defendants.
-----X

06-CV-3049 (BMC) (RER)
ECF Case

**DECLARATION OF STEVEN
SYKES IN SUPPORT
OF PLAINTIFFS' FEE
APPLICATION**

STEVEN E. SYKES, under penalty of perjury, affirms and states as follows:

1. I am an attorney admitted to practice in the courts of New York, as well as the United States District Court for the Southern and Eastern Districts of New York, and the United States Court of Appeal for the Second Circuit.

2. I am Senior Assistant General Counsel in the General Counsel's Office of District Council 37, AFSCME, AFL-CIO (the "General Counsel's Office"). I have held this position since November 17, 2008. As Senior Assistant General Counsel, I supervise eight attorneys, including assigning cases and review work. I also take the lead on the more complex litigation that our office handles. Prior to my current position, I was an assistant general counsel in the General Counsel's Office from November 2004 until November 2008.

3. In 2006, I spent 162.25 hours working on this matter.

4. In 2007, I spent 212.75 hours on working on this matter.

5. In 2008, I spent 261.5 hours working on this matter.


6. In 2009, I spent 84.25 hours working on this matter.

7. In 2008, Anastasia Papadimitri, a legal assistant in my office, spent 65.9 hours working on this matter.

8. In 2009, Ms. Papadimitri spent 17.4 hours working on this matter.

9. I declare under penalty of perjury that the foregoing is true and correct.

Dated: New York, New York
July 22, 2010



Steven E. Sykes (SS1637)